

# **Minutes of a Regular Meeting**

## **April 3, 2003**

### **Town of Los Altos Hills**

#### **City Council Regular Meeting**

Thursday, April 3, 2003, 6:00 P.M.  
Council Chambers, 26379 Fremont Road

#### **1. CALL TO ORDER, ROLL CALL, AND PLEDGE OF ALLEGIANCE**

Mayor Fenwick called the Regular Meeting of the City Council to order at 6:04 p.m. in the Council Chambers at Town Hall.

Present: Mayor Fenwick, Mayor Pro Tem Cheng and Councilmembers O'Malley, Kerr and Warshawsky  
Absent: None  
Staff: City Manager Maureen Cassingham, City Attorney Steve Mattas, Planning Director Carl Cahill, City Engineer/Director of Public Works Mintze Cheng, Administrative Services Director Sarah Joiner, and City Clerk Karen Jost  
Press: Christina Bellantoni, Palo Alto Daily News; Kaye Ross, San Jose Mercury News; Tim Seyfert, Los Altos Town Crier

MOTION SECONDED AND CARRIED: Moved by O'Malley, seconded by Cheng and passed unanimously to limit the length of time for public comments to three minutes or more at the Mayor's discretion.

#### **2. APPOINTMENTS AND PRESENTATIONS**

#### **3. PLANNING COMMISSION REPORT**

Planning Director Carl Cahill reported that the Planning Commission has not met since the last Regular City Council Meeting of March 20, 2003.

#### **4. CONSENT CALENDAR**

Items Removed: Item 4.1(O'Malley) and Item 4.4 (O'Malley)

MOTION SECONDED AND CARRIED: Moved by Cheng, seconded by Kerr and passed unanimously to approve the remainder of the Consent Calendar, specifically:

- 4.2 Approval of Warrants: 03/13/2003 – 03/27/2003 \$151,100.79
- 4.3 Fast Track Application: Approved by the Planning Director: Lands of Yu (172-02-ZP-SD), a request for a new residence, secondary dwelling unit and swimming pool

Items Removed:

- 4.1 Approval of Minutes: Regular City Council Meeting, March 20, 2003

MOTION SECONDED AND CARRIED: Moved by O'Malley, seconded by Cheng and passed unanimously to approve the minutes of the March 20, 2003 Regular City Council Meeting as amended with the following correction: page 5, paragraph 2 should read “ they will be able to support every path with a referenced parcel map, a **tract map** or a resolution.”

- 4.4 Approval of request for a Site Development Permit for landscape screening and hardscape improvements, Lands of Mendez, 27581 Elena Road (211-02-ZP-SD)

Councilmember O'Malley requested clarification from the Planning Director on this item.

Cahill explained that the application before Council is a landscape screening plan and hardscape improvements for the barn. He added that prior to the barn receiving a final from Building, the applicants are required to submit a pathway easement, a conservation easement and a right-of-way dedication as outlined in their conditions of approval for the project.

MOTION SECONDED AND CARRIED: Moved by O'Malley, seconded by Cheng and passed unanimously to approve the request for a Site Development Permit for landscape screening and hardscape improvements, Lands of Mendez, 27581 Elena Road (211-02-ZP-SD).

## 5. UNFINISHED BUSINESS

### 5.1 Update on Mayor's Goals

#### 5.1.1 New Town Hall – Status Report

Councilmember Kerr noted that tonight's Public Hearing would be a presentation by the architects of their style renderings. Kerr added that there would be an opportunity for a question and answer period for the public following the presentations.

#### 5.1.2 Undergrounding of Utilities – Status Report

Councilmember Warshawsky reported that his Committee had met on March 27, 2003. The main topic of discussion was funding of the Town's undergrounding project. The Committee came to a consensus that this issue would require further exploration and it will be considered at their next scheduled meeting on **April 24, 2003**. Warshawsky added that he had joined the City Manager and Committee member Steve Schmidt on a fact-finding trip to Tiburon. They had met with the Tiburon City Manager and City Engineer and attended the Tiburon City Council meeting where a draft undergrounding policy and procedures was discussed. Warshawsky added that the meeting had proved to be very fruitful and Tiburon will be an excellent future resource for information on this subject.

Councilmember Kerr asked if the City of Tiburon participates in the financing of undergrounding. Warshawsky noted that they have adopted a policy of not contributing financially but they do provide administrative support.

#### 5.1.3 Master Pathway Map – Committee Report

Councilmember O'Malley reported that the Ad Hoc Easement Committee has been meeting every Friday at Town Hall. They have yet to discover any errors of significant magnitude with the pathway map. O'Malley thanked residents Carol Gottlieb, Dot Schreiner, Les Earnest, Nancy Ginzton and Bob Stutz for their many hours of effort on this project and added that he is still hopeful that the review of the map will be completed by the end of April.

Councilmember Warshawsky **thanked members of the Committee** for the presentation **they** had given to the Pathway Committee at their last meeting and congratulated **them** on the progress that **they have made**.

#### 5.1.4 View Protection Ordinance –Public Hearing Regular City Council Meeting May 15, 2003

Planning Director Cahill reported that the View Protection Ordinance would be scheduled for the Regular City Council Meeting of May 1, 2003 not May 15, 2003 as identified in the Agenda. Cahill added that the Public Notices would be mailed to residents next week.

### 6. NEW BUSINESS

None

### 7. REPORTS FROM COMMITTEES, SUB-COMMITTEES, AND COUNCILMEMBERS ON OUTSIDE AGENCIES

Mayor Fenwick reported on the Emergency Communications Committee meeting of April 1, 2003. They had sixteen licensed radio amateurs in attendance. Fenwick noted that he has requested an amendment to the Town's Standing Committee Resolution to increase the membership of this Committee to 20 members. It will be scheduled for consideration at the next regularly scheduled City Council meeting. Mayor Fenwick added that all Committee members must be either licensed radio amateurs or individuals in training for licensed status.

Mayor Pro Tem Cheng reported that she had attended the Parks and Recreation Committee meeting on March 31, 2003. The Committee has a full schedule of summer activities planned for the community. Cheng added that the horsemanship camp is already filled and they are accepting reservations for a cancellation list. The Committee is considering the purchase or lease of a horse to enable more classes of this very popular program.

Mayor Pro Tem Cheng noted that the Parks and Recreation Committee meeting she attended had been scheduled to discuss the Santa Clara Valley Water District Reach 5 proposal for Edith Park. SCVWD claimed there is a great deal of misinformation regarding this project, and Cheng noted that she was looking forward to this evening's Public Hearing on this issue for further clarification.

Councilmember Kerr reported that he has attended several 7-11 Committee meetings on the disposition of the Bullis School site. Kerr has requested that the membership of the Committee be increased to include 2 members from Los Altos Hills. Kerr added that one member would be a neighbor of Bullis School and the other an "unbiased" resident. His request was approved by the School Board and he is pleased that the Committee will now have more representatives from the Town.

Kerr explained that California law governs the disposition of surplus school sites. It is a very protracted process. He added that the Los Altos School Board and representatives of the proposed Charter School are having difficulty resolving numerous issues. Kerr stated that he will continue to report to Council on this issue.

## 8. STAFF REPORTS

### 8.1 City Manager

### 8.2 City Attorney

### 8.3 City Clerk

#### 8.3.1 Report on Council Correspondence

## 9. COUNCIL-INITIATED ITEMS

- 9.1 Discussion of Resident Briefing on Burglary Prevention by Sheriff's Department – Mayor Fenwick

Continued to the April 17, 2003 Regular City Council Meeting

- 9.2 Proposed Agenda for April 29<sup>th</sup> Joint Town of Los Altos Hills and City of Los Altos Council Meeting – Mayor Fenwick

Continued to the April 17, 2003 Regular City Council Meeting

## 10. PRESENTATIONS FROM THE FLOOR

OPENED PUBLIC COMMENT

CLOSED PUBLIC COMMENT

## 11. PUBLIC HEARINGS

- 11.1 Lands of the Town of Los Altos Hills, 26379 Fremont Road, Presentation by Architects and Discussion of Style Renderings for the New Proposed Town Hall.

Peter Duxbury, Duxbury Architects, described his Craftsman style design for the new Los Altos Hills Town Hall. He explained the building is organized along an axial, gallery space that has two transepts and a large courtyard with the Heritage Oak tree at the center. Duxbury displayed two large renderings of his proposal one of his site plan and floor plan and one of his earlier submitted elevation rendering.

Duxbury noted that the long linear site would be linked from the entrance to the building with a trellis and a gallery through the building with a matching trellis connecting the Heritage House to Town Hall. Parking would be closer to the proposed Town Hall at the south end and there would be no auto access to the north. Duxbury explained Council Chambers would be accessible from the gallery and from the courtyard.

The proposed materials for the Craftsman design of Town Hall include a charcoal composition roof, natural redwood beams and working window casings, a combination of wood siding and stucco exterior and a low stone/masonry seat at the courtyard.

Duxbury explained his concept for the new Town Hall was to provide the community with a building that has a configuration that creates interest with indoor spaces (offices and Council Chambers) and outside spaces like the courtyard surrounding the Heritage Oak and low banks of wall for seating.

John Goldman, Goldman Architects, explained the design changes from his earlier Mission Town Hall (2002) including the elimination of the clock tower, smaller clearstory at the roof and exposed wood tresses in Chambers. Round columns have been eliminated in favor of stucco arches to give the building a less formal appearance. Half of

the proposed roof would be tile and half wood trellis. Goldman added that his courtyard would consist of pavers on sand.

Goldman noted that, in his design, he had located Council Chambers on the south side of the building because the greatest number of visitors to Town Hall are for meetings in Chambers. He added that all parking would be located on the southern portion of the site and the entry would remain at Fremont and Concepcion.

Goldman described his proposed floor plan for Council adding that he had not made any interior changes to his earlier design but that his new proposal would be less costly. The materials for his Mission design would consist of stucco for the exterior, exposed wood rafters in Council Chambers, tile floors, wood trellis over the courtyard and tile roof. Goldman concluded his presentation by saying that he was attempting to make a strong connection between indoor and outdoor space with his design.

Barry Nathan, Architect, addressed Council and introduced his associate, architect John Fisher, who had assisted with the Rural Design of the new Town Hall. Nathan displayed several new conceptual plans for Council including a view of the reception and public gallery area, perspective view from Fremont Road of an alternative scheme showing a metal roof with photo-voltaic elements on the southern exposure and a new site plan that opened up the Town Hall to Fremont Road.

Nathan clarified his definition of Rural Design as a traditional American barn style which is very appropriate for the rural – agricultural nature of Los Altos Hills. He noted that the materials that would be used for this design would include salvaged wood and casement windows.

John Fisher AIA, expressed to the Council his philosophy on the importance of a building being a “healthy” building. He supported this belief with a reference to a Sacramento building that had improper air flows and created health problems for the workers. Fisher summed up his presentation by adding that the Rural Design can use walls of recycled or harvested wood.

David Arkin, Arkin-Tilt Architects, stated that he preferred to refer to his design as a sustainable approach not style. His proposal included the use of solar heating, daylight and natural ventilation. He noted that his design was simple, rustic elegance. Arkin proposed to identify the best part of the existing space and retain it. He noted that the current Town Hall could be remodeled or rebuilt depending on the condition of the building. He would prefer to keep the existing building because of its established identity within the community. Arkin noted that the construction materials proposed for his building included a combination of PISE and fiber-cement with a metal roof, possibly of copper.

Arkin proceeded with a power point presentation of previous works and his design concepts for the new Town Hall. He commented that he felt it was important to recognize the Town Hall as different from the surrounding houses. Cupolas would be used as a defining mark from the residences. Arkin explained that the copper roof would be expensive but the life span would justify the cost. He added that grants might be an option for the solar heating costs.

Arkin concluded that his proposal would create a rural complex that would include a casual courtyard as a public gathering space, a restored orchard, and areas beyond the Heritage House for educational demonstrations of sustainable technologies and agricultural research.

#### OPENED PUBLIC COMMENT

Ansel Schiff, 27750 Edgerton, asked what would happen to the Water District if a new Town Hall is built.

Councilmember Kerr explained that the Purissima Hills Water District has expressed interest in building a new office on the Town Hall site but is waiting to see what design style is chosen for our new Town Hall. The District intends to build something that will be architecturally compatible.

Eli Whismer, 26840 St. Francis Road, reiterated to Council the strong opposition the neighbors have continuously voiced against changing the driveway entrance from its placement on Fremont and Concepcion.

Alan Bien, 26540 Conejo Court, thanked Council for the variety of plans that have been presented to the residents this evening. He asked for clarification on the costs and size of each proposal.

Councilmember Kerr described the parameters that were given to each Architect who participated in the design phase of this project. He noted that all were asked to have their designs meet Town zoning and building regulations for a single family home, be approximately 8,000 square feet and be built for a cost of \$300/ square foot.

Elayne Dauber, 27930 Roble Alto, referred to past Councils' intent to stage the construction of Town Hall so that staff would not be disrupted. She asked if the Architects had considered this in any of their proposals.

The Architects responded that this had not been a requirement for their style designs and they concurred that a cost analysis would have to be done to see if staging construction would be financially feasible.

Dan Alexander, 27200 Elena Road, expressed his appreciation for the approach that Council had taken with tonight's Public Hearing. He noted that the openness of the dialogue and the atmosphere of meeting were very positive.

Ginger Summit, 12390 Lennox Way, asked for further clarification on what the residents are being asked to consider when responding to the preference poll. She asked if each plan has the flexibility to meet the needs for storage, staff and meetings.

#### CLOSED PUBLIC COMMENT

Councilmember Kerr explained that the preference poll was focusing on architectural style for the new Town Hall. A space and needs assessment would be done in the future, once the style had been determined.

Mayor Fenwick thanked the architects for their presentations and participation in the meeting.

- 11.2 Lands of Santa Clara Water District (SCVWD), S.E. Corner of Fremont Road and W. Edith Avenue (Edith Park) and Lands of Rogez, 15617 Fremont Road and Lands of Astiz, 13901 W. Edith Avenue. Subject: (1) Adobe Creek Reaches 5, 7, 9 Project and (2) Request for an easement over Edith Park (Town of Los Altos Hills) for environmental mitigation purposes and (3) Request for an agreement for assignment and assumption of storm drain easements on Lands of Rogez and Lands of Astiz.

Mintze Cheng, City Engineer/Director of Public Works, introduced this item to the Council by providing a brief historical overview of the project. Cheng noted that before Council was a request from the Santa Clara Valley Water District for the Town to grant easements at Edith Park and two other private properties upstream of Edith Park that would allow the District to proceed with the Reach 5 portion of the Adobe Creek Watershed Project. Cheng explained that at the September 19, 2002 City Council meeting, the Council had rejected the requests from SCVWD for the easements and had urged the District to consider the vegetated riprap approach for that Reach designed by D.J. Rogez's (property owner, 15617 Fremont Road) hydrologist, Mitch Swanson. This design has been financed by Mr. Rogez.

SCVWD placed the Reach 5 portion of the Project on hold indefinitely after Council's action in September 2002. The District continued its' design work for Reach 7 (Burke Street Bridge) and Reach 9 (O'Keefe culvert) and is planning to start construction on those two phases of the Adobe Creek Watershed Project this summer.

Cheng noted that the District's plan to replace the existing Burke Street Bridge is causing concern to Town residents who live along Reach 6 (between Burke Street Bridge and Edith Bridge). She concurred with those concerns explaining that making improvements upstream above Burke Street Bridge will allow incrementally more floodwater to pass under the bridge and flow downstream. Cheng supported this concept by explaining that the creek channel along Reach 6 is very narrow. SCVWD claims that Reach 6 would be inundated with flooding anyway before or after the replacement of the Burke Street Bridge.

Cheng added that even if the SCVWD proceeds with their proposed work at Reach 5 with no improvement at Reach 6, the reduction of flooding for Reaches 5 and 6 will be minimal and residents along these Reaches will still be in the 100 year FEMA flood zone.

Cheng concluded by proposing if Council should decide to grant easements to SCVWD for Reach 5, staff requests that Council approve them in concept to allow time for our Parks & Recreation, Open Space and Environmental Design and Protection Committees

and staff to work with SCVWD to refine the use agreement and its timeline for Edith Park.

Planning Director Carl Cahill added that the Open Space Initiative that was recently adopted by Council designates Edith Park as Open Space and granting the easements requested by the SCVWD would take away the Town's control of the Park in perpetuity and use of the Park by the Town's residents in the future. Cahill reiterated the City Engineer's request that if Council should choose to grant the easements, they do so conceptually to allow time for staff to define a use plan for Edith Park.

Councilmember O'Malley explained that the Council had previously rejected the District's plan. He recounted his vote by saying he had voted against granting the easements in hope that SCVWD would return to the Town with a modified plan that would be less intrusive. O'Malley noted that the plan remains the same and asked rhetorically why was Council reviewing this issue again. He explained that the concerns of residents along Reach 6 with the Burke Street Bridge project scheduled for this summer and the seating of a new Council made this an appropriate time to revisit this issue.

Councilmember O'Malley summarized the Adobe Creek Watershed Project for Council and the public. He explained that he had researched this issue by speaking with former Mayor Elayne Dauber and Greg Zlotnick, Santa Clara Valley Water District Board of Directors – District 5. As background information, he noted, that in the early 1990's, Los Altos Hills residents in Reaches 5 and 6 were concerned about erosion and flooding along Adobe Creek and the resulting impact on their properties. A committee comprised of citizens from the City of Los Altos, the Town of Los Altos Hills and representatives of the District developed a plan that was approved by the committee members of both cities in 1996. The District, while designing the proposed plan, determined that the plan needed to be modified after they increased the amount of water they felt needed to be accommodated. The revised plan has a greater impact on the Los Altos Hills side of Adobe Creek. More trees are proposed to be removed, the channel will be widened and the District will require the use of Edith Park for their mitigation measures which will necessitate the removal of the present vegetation to allow them to cultivate riparian habitat. This will restrict Town residents' use of the Park for five to ten years and possibly in perpetuity.

Councilmember O'Malley addressed the public. He requested that when the Mayor opened the Public Hearing for citizen comments, those who address the Council have a clear understanding that in his opinion, the opinion of the City Manager and the opinion of former Mayor Elayne Dauber, if the City Council votes to reject the District's proposal there is no alternative proposal. He asked the citizens to be "intellectually honest" and understand that nothing will be done to the creek if the Town does not convey the requested easements. The District has allocated \$2.3 million for this project and has spent \$2 million on the design and study phase of the project. The Town does not have the funds to do the massive amount of work that is needed for this project nor do they want the liability. If the citizens choosing to offer their input advocate rejecting the District's proposal, they should not suggest that the Council accept the Swanson Plan unless they

have substantial proof that there is funding available. This is not a viable solution. The Mitch Swanson proposal, designed by Mr. Rogez's hydrologist, is not an alternative plan that is under consideration. It has been rejected by the District.

Councilmember O'Malley asked the residents who reside on the Los Altos side of Adobe Creek to explain why they have not offered easements to the District and those residents who reside on the Town's side of the Creek and are concerned about flooding, to please understand that many feel that there is a normal risk associated with living in a flood plain. O'Malley asked Mr. Rogez to address the question "were you not aware of an incursion by the Water District before you bought the house?" O'Malley concluded by saying he believed that answers to the questions he had posed would lead to an honest discussion.

Jennie Micko, Santa Clara Valley Water District, elucidated for Council the present status of the Adobe Creek Watershed Project with regards to Reach 5. In July 2002 the District Board defunded Reach 5 and all work on the project was stopped. If the Town of Los Altos Hills grants the easements that have been requested for this project, the District will return to the Board of Directors to ask for appropriations to finish the project.

Micko introduced Karen Uyeda, SCVWD to give a Power Point presentation on Reach 5 to Council on entitled "Adobe Creek Presentation at Request of Los Altos Hills" April 3, 2003. Council had handouts to follow in conjunction with the slides. Uyeda explained that the District was trying to protect the creek's eco-system and habitat and to decrease the loss of property due to erosion. The presentation continued with slides of existing problems in Adobe Creek including bank erosion, sedimentation, narrow channels, and failing wood and concrete walls that could potentially cause downstream blockage. Uyeda's presentation showed representative slides of the design approach that has been used by the District to convey the 1% flood flow and project elements of Adobe Reach 5. She concluded her presentation by explaining what SCVWD would need to proceed with the project and a possible timeline.

Liang Lee, Santa Clara Valley Water District, continued the presentation to the Council with respect to Reaches 7-9 Project which involve the replacement of the bridge at Burke Road and the culvert at O'Keefe. He informed Council that the District is currently doing an internal review of this project to address the neighbors' concerns and no date for construction has been set. Lee introduced Scott Wilson. Wilson was the Adobe Creek Project Manager during the initial planning phase in the 1990's and was in attendance to answer any historical questions the Council might have.

Mayor Fenwick asked the representatives of the Water District to address the issue of other easements that have not been granted to the District and are necessary to do the work in Edith Park.

Liang Lee explained that they have not received easements for the Galli and Schroeder properties, both of which are in Los Altos.

Jennie Micko informed Council that if these easements are not granted, the District would need to find another site in addition to Edith Park. She noted that it is very

difficult to find an appropriate place to cultivate riparian habitat. Micko stated that they had been investigating the Town's property at Rhus Ridge as a possible mitigation site for vegetation.

Mayor Pro Tem Cheng asked if eminent domain could be used to acquire property.

Micko responded that it is difficult to use eminent domain to acquire land for mitigation purposes. It is much easier to use this successfully when building a structure or facility.

Councilmember Kerr asked for clarification on what the District is planning to plant as replacement trees.

Karen Uyeda explained that they would be using acorns or one gallon tree pots for the Oaks. She added that their biologist has advised that these would be the most adaptable, healthiest and thrive at a greater rate.

Councilmember Kerr asked how the District would deal with deer and wildlife eating the vegetation.

Uyeda acknowledged that the District would be actively maintaining the site for three years and monitor the site for ten years.

Mayor Fenwick noted that he had a Draft Joint Use Agreement in his packet of information on this item that had been written by Town staff and the District. He asked if the SCVWD was still amenable to the agreement.

Micko responded that the agreement represents the Districts present position.

#### OPENED PUBLIC COMMENTS

Bob Clifford Jr., 25240 Cantata Way, asked if an inventory of the trees to be removed has been made.

Mitchell Swanson, Swanson Hydrology & Geomorphology, representing Mr. Rogez property owner at 15617 Fremont Road, addressed the Council. He explained that his presentation tonight would address the risks, environmental ramifications and flaws of the District's project and the significant engineering problems with Reaches 5-6-7. He added that this project creates more risks than problems that are solved. Reach 5 project will generate more flooding and significant lateral erosion. Swanson explained in reviewing this project, it is his position that there will be no flood benefits.

Meeting was adjourned for 10 minutes for equipment replacement to allow Mr. Swanson to continue his presentation

Meeting reconvened.

Mitchell Swanson, expressed his concerns for the District's proposal to replace Burke Bridge noting that it will potentially create an increase in flooding hazards. Swanson continued his presentation explaining his findings with slide representations. Swanson showed a table that reflected changes to the original EIR showing more hardscape, larger benches and other modifications to the project. He concluded by saying he believes there are grant monies available for projects that are more appropriate for Adobe Creek.

Councilmember O'Malley asked Swanson why the District's proposal to remove three feet of sediment from under the Edith Street Bridge and widen the channel on the Reach 5 side of the bridge to increase the flow and would not minimize some of the potential flooding.

Swanson responded that it is his belief that the constriction is prior to the bridge.

Councilmember O'Malley noted that the Council had reviewed the Swanson plan and found it to be more environmentally friendly and a less invasive plan but it had been rejected by the District.

D.J. Rogez, 15617 Fremont Road, explained to Council when he purchased his property, he was told that the creek behind his property would be maintained and protected by the District. He granted a conservation easement and a storm drain easement to the Town. Rogez expressed his frustration at the misrepresentation by the SCVWD that the proposed plan for Adobe Creek has not been modified noting that at the City Council meeting last month, a District representative said there had been no changes to the plan. Rogez distributed a nineteen page document to Council that was prepared by the District which identified changes to the project in Reach 5 since 1999. The Addendum to the EIR was dated January 2002 and had not been provided to Council by the SCVWD. Rogez stated the District has too much power with no accountability.

Timothy Tosta, Steefel Levitt and Weiss, counsel for Rogez, addressed Council. He requested to reserve his remarks for the conclusion of the Public Comment.

Ernest Solomon, 27500 Elena Road, asked Council if no action was taken by the Town, would it incur liability.

City Attorney Steve Mattas explained that if the Town does not engage in affirmative actions to modify the creek bed, then the Town's liability would be limited.

Jitze Couperus, 13680 Page Mill Road, gave a slide presentation to Council concentrating on the Edith Park phase of the project. He showed representations of SCVWD mitigation efforts on other projects.

Rebecca Hickman, 26500 Purissima Road, stated that the issue before the Council is one of principle. Flood abatement is needed but the inflexibility of the District, a public agency that is run by elected officials, is disturbing. They have no accountability to the citizens they serve. Hickman added that this is not a now or never proposition and that elected officials can be replaced and agencies reorganized. She urged the Council to consider negotiation and compromise.

Wayne Abraham, 12630 Corte Madera Lane, asked for clarification on the requirement of the Astiz easement to proceed with Reach 5.

Councilmember O'Malley responded that the Astiz easement is needed. He explained that the Town has the right to take their storm drain easements and convey them to the District and this is the issue being discussed this evening.

Pat Millar, 400 Cypress Drive, Los Altos, thanked the Council for the opportunity to speak. She informed Council that there are three residents including herself who have not yet granted easements. She voiced her frustration on the results of years of work with this project and the environmentally insensitive outcome. Millar asked Council, if they do grant the easements to the District, to consider making them conditional, and retain some of the non-native trees in Edith Park be retained.

Terese Blockhus, 441 Cypress Court, Los Altos, commented that no one is happy with the project, however, she believes it is better than nothing. The continued potential of flooding and erosion are disconcerting and the issues are not going away. Blockhus added that she is supportive of the plan but could understand if Council denies the easements due to the numerous risks with the plan. She suggested that if the problem is debris in the creek, an annual creek clean-up could be beneficial but maintenance is not a permanent solution.

John Galli, 16 Middlebury Lane, Los Altos, informed Council that he will not grant an easement to the District and urged Council to do the same. He questioned why easements were necessary when the District is mandated to maintain the creeks.

Tom Mandle, 25435 Fremont Road, requested Council approve the project. He has been involved with the project for the past seventeen years and has engaged the services of a hydrologist and a civil engineer to assess the impact on the Reach 6 neighborhood if the project is done out of sequence. He noted that they concluded that the project being done out of order will endanger the homes in Reach 6. Mandle requested that the work on Adobe Creek watershed be done simultaneously or from downstream to upstream.

David Bowers, 13730 Burke Road, has been a Town resident for 31 years. He explained that when he purchased his home, he was not aware of any flooding problems with the creek. FEMA maps and flood plains were non-existent and sellers were not required to disclose problems with the property. Bowers voiced his surprise and distress in hearing that the Burke Bridge project has been delayed and urged that it go forward.

Judy Estrin, 25311 West Fremont Road, commented that the plan may not be perfect but it is the only plan being considered. She explained her concerns over flooding and potential hazards and added that these issues need to have priority over aesthetics. Estrin urged Council vote to give the easements adding that if Reach 7 proceeds without Reach 5, the Town may have liability.

Jane Kawasaki, 27078 Fremont, voiced her opposition to granting the District the Edith Park easements. She noted her experiences with the District's aggressive lobbying of the Parks and Recreation Committee members for their approval of a 2002 "re-vegetation

project” and now it is referred to as a “flood abatement project” in 2003. Kawasaki added that she believes the District has not been forthcoming with information on the Adobe Creek Watershed Project and urged Council to not grant the park easements and to consider other alternatives.

Richard Moll, 1 Cypress Court, Los Altos, explained that he believes the major problems along the creek are erosion issues. He suggested that the District approach this project as an erosion control plan not a flood control plan. This may eliminate some of the guidelines that are being used that have such a negative impact on the creek.

Nancy Couperus, 13680 Page Mill Road, stated that Open Space Advocates are alarmed by the District’s plan to alter Edith Park and restrict its use by the public for five years, with their proposal to remove 150 mature trees along the creek and to transform the creek into a straight channel with concrete benches on one side and gabions on the other. Couperus noted that the Town’s General Plan speaks to preserving the natural environment. The Los Altos Hills Open Space Initiative listed Edith Park as one of the Town-owned properties that should be protected. She urged Council to involve other agencies in this process so that a solution can be reached that is agreeable to all.

Al McCloud, 430 Cypress Drive, Los Altos, explained that there are approximately ten homes in his neighborhood that are on the creek side and all have significant erosion problems. He urged that Council consider this issue when making their decision and vote as good neighbors.

Peter Astiz, 13901 West Edith, reported that the Army Corps of Engineers has not yet granted a permit to the District for the project. He noted that he is disturbed with the lack of information that is provided by SCVWD.

Jim Abraham, 12831 Viscaino Road, stated that in his opinion the lack of diligence of the property owners who reside along the creek and suffer flood problems, has contributed to the situation. If Council grants the easements in Edith Park, he would like to see Council make it conditional on returning the park to Town in a short period of time.

Libby Lucas, 174 Yerba Santa, Los Altos, explained she had been informed by a former member of the California Water Resources staff that if the Town grants the Edith Park easement, it would become a part of an ultra hazardous flood control action – flood control and would share in the liability with the District. She suggested the Council consider using the Regional Water Board as a negotiating agent to resolve the outstanding issues and design a better plan that would be a benefit to everyone.

Patty Ciesla, 11990 Page Mill Road, asked Council to postpone taking action tonight and send the project back to SCVWD for modification.

Elayne Dauber, 27390 Roble Alto, addressed Council. She stated that she was a key member of the Adobe Creek Watershed Project Committee from 1992 to 2000. Dauber noted that everyone wants a project and most are in agreement and favor many aspects of the Swanson plan except for the District. Dauber provided Council with an historical overview of the project. She explained that Los Alto Hills and the City of Los Altos

agreed on a plan in 1993 and the District proceeded with their study and completed their EIR in 1995. In 1997, the District made the plans public and everyone was surprised by the changes. The Town expressed their objections to the modifications but was told by the District that if the Town made changes, the project would be delayed. The Town compromised and asked the District to complete the work before the new homes were built at Reach 5. In 1998, the project had not been completed. The Town again asked if modifications could be accommodated but were told this would delay the project. In 2000, when the project had not been started, the Town withdrew its support. Dauber noted that the Town had been prepared to grant the easements during this time, but the District did not request them. She added that during all of the negotiations prior to 2000, the District had never asked for an easement in Edith Park. Dauber reiterated that the Town had not delayed this project; many agencies found faults with the plan and delayed their approval and permits. Dauber concluded by saying she feels that if the cities and residents were to voice their support for an alternative plan, the District would listen.

Diane Cassam, 27400 Altamont Road, distributed to Council a photo of a successful and environmentally friendly solution to erosion in a creek bank that had been done by the District on the Moos property at 25661 West Fremont Road. She suggested more collaboration with Town Committees and the District to solve this problem.

Sandy Humphries, 26238 Fremont Road, noted that she was under the impression that all issues with Adobe Creek had been resolved. She was surprised to learn of the numerous modifications. Humphries has contacted regulatory agencies to try to save Edith Park and the creek from such drastic measures. She hoped Council would consider assistance from other agencies and noted that San Francisco Regional Water Quality Control Board has offered their help.

Susan Mandle, 25435 Fremont Road, lives directly next to Adobe Creek and experiences flooding on her property. She noted that development in Los Altos Hills has had a significant impact on Adobe Creek. Mandle asked if Council does deny the easements for Reach 5, they should stop the work at Burke Bridge.

Timothy Tosta, Steefel Levitt and Weiss, environmental counsel for Rogez, addressed Council. Tosta criticized the District and specifically Mr. Zlotnick, District Director, regarding the numerous negative comments that have been made about his client and his attempts to delay the project. He explained that, in his opinion, there is no urgency that would require a vote by Council tonight. There are significant obstacles to the project even if the Town agrees to move forward with the project: a number of easements that have not been granted by property owners; several regulatory agencies have put the project on hold and have not reviewed the modifications; the legal issue of whether a storm drain easement in a conservation easement is valid and under review; and the Regional Water Quality Board's concerns with the project are unresolved. He urged Council not approve the antiquated design and investigate a more environmentally sound solution. Tosta stated that he believed Mr. Zlotnick was acting in an irresponsible manner as an elected official, that his legal and political careers were on the line with this project.

Councilmember O'Malley took offense to Tosta's personal remarks in reference to Mr. Zlotnick.

Dianne Cassam, 27400 Altamont Road, voiced her objection to Councilmember O'Malley's comments about Mr. Tosta.

Sandra Humphries, 26238 Fremont Road, reminded Council that there is an arbitration committee in this venue that is available.

Jennie Micko, SCVWD, stated that the District does have a technical disagreement with Mitch Swanson. They do not believe that his plan meets the requirements for a 1% flood and is designed to civil engineering standards that are considered insufficient to the District. Micko added that the District does possess all of the necessary permits for this project to move forward and does not believe arbitration is an option at this time. Micko concluded by stating the District has a full slate of projects and may not have the necessary monies to move forward with new designs. Her Board may vote to indefinitely postpone the Adobe Creek Reach 5 project if they are not granted the necessary easements by the Town.

Councilmember Warshawsky asked if Micko was eliminating arbitration as an alternative. Micko explained that financially, arbitration is not viable option at this time and additional funds are not available for this project.

Mayor Pro Tem Cheng asked if the project could be completed without Edith Park. Micko explained they need the acreage for the mitigation vegetation.

Councilmember Kerr referenced the \$200 million the District has in funds and questioned why Micko was describing financial limitations for this project. Micko explained that the funds had been allocated to projects.

## CLOSED PUBLIC COMMENTS

Councilmember O'Malley stated this was a very difficult issue and he had expended a great deal of time looking for a solution. The project that the Council was voting on was not the plan that had been presented to the Town in 1993, 1995 or 1997. If the District was introducing this plan to the Council today as a new project in Adobe Creek, it would not be approved. O'Malley expressed his concern that if the Council rejects the project, there is a 50 percent risk that the District will walk away. However, the defoliation of Reach 5, the proposal to remove six to twelve feet of dirt from the creek bed, the long term use of Edith Park and removal of existing trees and foliage in the park are enough reasons to assume the risk and he would vote against the project.

Councilmember Kerr explained that he could not support the project and would vote to deny the easements. He does not believe it will solve flooding problems for the

residents. Kerr voiced his opposition to the mitigation measures that will impact Edith Park and possibly Rhus Ridge. He would consider a revised plan that is less intrusive and more compatible with the environment.

Councilmember Warshawsky explained that he was uncertain of his position when researching this project and wanted to wait to hear from the District and residents before making a final decision. He added that he could not support the project as it is presently designed, however he does not want this vote to influence future District projects and hoped the District would listen to the concerns that had been voiced, resolve the problems and come up with a better plan.

Mayor Pro Tem Cheng stated this had been an extremely difficult issue. Originally, she was considering supporting the project because of the flooding problems that plagued the residents who live along the creek and the fact that many years of effort have been devoted to this project by residents and committee members. Cheng added that after listening to the testimony of the citizens and the history of the project during the Public Hearing, she could no longer support conveying the easements. The project will have too great an impact on the Town environmentally. Cheng added that she could support a different, less invasive plan

Mayor Fenwick stated that the people in our Town who will have the greatest impact from this project, those that reside along Adobe Creek, have been ignored tonight. He explained that he often receives unsolicited advice that it is important to listen to “the residents” and tonight it is important to listen to the residents who live by the creek. Fenwick noted that he had received correspondence from five property owners who live in Reach 5 and Reach 6 and 4-1 they have requested the Council to transfer the easements to the District. He acknowledged that he had not heard anyone tonight speak in favor of those residents wishes. Fenwick added that he believes the potential environmental damage is grossly overstated and the construction of the project could possibly result in the Town having something better than what exists now.

MOTION SECONDED AND CARRIED: Moved by O’Malley, seconded by Warshawsky and passed by the following roll call vote to confirm the prior denial of the request for an easement over Edith Park for environmental mitigation purposes and the request for an agreement for assignment and assumption of storm drain easements on the Lands of Rogez and the Lands of Astiz based on the scope of their project.

AYES:	Mayor Pro Tem Cheng, Councilmembers Kerr, Warshawsky and O’Malley
NOES:	Mayor Fenwick
ABSENT:	None
ABSTAIN:	None

## 12. CLOSED SESSION

CLOSED SESSION: CONFERENCE WITH LEGAL COUNSEL – EXISTING  
LITIGATION: Government Code Section 54956.9(a): Campbell and Ligeti v. Town of  
Los Altos Hills

The City Council considered the item listed on the closed session agenda and provided direction to staff.

Council reconvened into Open Session at 11:23 p.m.

There was no action taken.

13. ADJOURNMENT:

MOTION SECONDED AND CARRIED: Moved by O'Malley, seconded by Cheng and passed unanimously to adjourn the Regular City Council Meeting at 11:25 pm.

Respectfully submitted,

Karen Jost  
City Clerk

The minutes of the Regular City Council Meeting of April 3, 2003 were approved as amended at the Regular City Council Meeting of April 17, 2003.